



# *COMMONWEALTH of VIRGINIA*

## *DEPARTMENT OF ENVIRONMENTAL QUALITY*

### NORTHERN REGIONAL OFFICE

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Douglas W. Domenech  
Secretary of Natural Resources

David K. Paylor  
Director

**STATE WATER CONTROL BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
LOUISA COUNTY WATER AUTHORITY  
FOR  
ZION CROSSROADS WWTP  
VPDES Permit No. VA0090743**

### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and Louisa County Water Authority, regarding the Zion Crossroads WWTP, for the purpose of resolving certain violations of the State Water Control Law and the applicable Permit and regulation.

### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
4. "DMR" means Discharge Monitoring Report.

5. "Facility" or "Plant" means the Zion Crossroads Wastewater Treatment Plant (WWTP) located at 9746 James Madison Highway in Louisa, Virginia, which treats and discharges treated sewage and other municipal wastes, for the residents and businesses of Louisa County.
6. "LCWA" means Louisa County Water Authority, an authority created pursuant to the Virginia Water and Waste Authorities Act, Va. Code § 15.2-5100 et seq. LCWA is a "person" within the meaning of Va. Code § 62.1-44.3.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
8. "O&M" means operations and maintenance.
9. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
10. "Permit" means VPDES Permit No. VA0090743, which was issued under the State Water Control Law and the Regulation to Louisa County Water Authority on December 4, 2008 and which expires on December 3, 2013.
11. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9 VAC 25-31-10.
12. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.
13. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
14. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*

15. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
16. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
17. "Va. Code" means the Code of Virginia (1950), as amended.
18. "VAC" means the Virginia Administrative Code.
19. "VPDES" means Virginia Pollutant Discharge Elimination System.
20. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

#### **SECTION C: Findings of Fact and Conclusions of Law**

1. Louisa County Water Authority operates the Plant in Louisa, Virginia. The Permit allows Louisa County to discharge treated sewage and other municipal wastes from the Plant, to an impoundment of Camp Creek, in strict compliance with the terms and conditions of the Permit.
2. In submitting its DMRs, as required by the Permit, Louisa County has indicated that it violated the following discharge limitations contained in Part I.A.1 of the Permit as follows:
  - a. Total Phosphorus ("TP")— November 2008, May 2009, July 2009 and August 2009 monitoring periods;
  - b. Total Kjeldahl Nitrogen ("TKN") – November 2008, May 2009, July 2009, and August 2009 monitoring periods;
  - c. Dissolved Oxygen ("DO") – October 2008, May 2009 monitoring periods;
  - d. Total Suspended Solids ("TSS") – December 2008, May 2009, June 2009, July 2009, and August 2009 monitoring periods;
  - e. Carbonaceous Biochemical Oxygen Demand ("CBOD5") – December 2008 and July 2009 monitoring periods.
3. In addition, after a review of LCWA's files, DEQ staff have noted the following additional violations of the Permit:
  - a. Part I.B.2.c – Failing to report numerical value of data;
  - b. Part II.C.1 – Failing to submit results of the monitoring required by the Permit not later than the 10<sup>th</sup> day of the month after monitoring takes place;
  - c. Part II.I.3 – Failing to submit written reports of noncompliance containing information listed in Part II.I.2 of the Permit;
  - d. Part I.D.1.a – Failing to submit the industrial user survey within 180 days of the effective date of the Permit;

- e. Part I.D.2.c – Failing to submit an annual pretreatment report no later than January 31<sup>st</sup> of each year;
  - f. Part I.C.1 – Failing to submit a proposed plan to achieve compliance with final limits for Total Copper and Total Recoverable Zinc within 90 days of the effective date of the Permit;
  - g. Part II. Q – Failing to properly operate and maintain all facilities and systems of treatment which are installed and used by the permittee to achieve compliance with the conditions of this Permit stemming from a technical and laboratory inspection conducted by DEQ on May 20, 2009.
4. NRO issued Warning Letters and Notices of Violations for the previously cited violations as follows: WL No. W2008-12-N-1008, issued December 4, 2008; WL No. W2009-01-N-1001, issued January 9, 2009; WL No. W2009-03-N-1011, issued March 11, 2009; NOV No. 2009-05-N-0005, issued May 13, 2009; NOV No. 2009-06-N-0003, issued June 9, 2009; NOV No. 2009-07-N-0005, issued July 14, 2009; NOV No. 2009-08-N-0004, issued August 13, 2009; and NOV No. 2009-09-N-0004, issued September 10, 2009.
5. LCWA's DMRs indicate that it discharged treated wastewater from the Plant every day from October 1, 2008 through August 31, 2009.
6. Va. Code § 62.1-44.5 states that: "[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances."
7. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
8. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a "certificate" under the statute.
9. The Department has issued no permits or certificates to LCWA for the Plant other than VPDES Permit No. VA0090743.
10. The impoundment of Camp Creek is surface water located wholly within the Commonwealth and is "state water" under State Water Control Law.
11. Based on the results of the May 20, 2009 inspection, the file review, and the DMRs submitted by LCWA, the Board concludes that LCWA has violated the Permit and Va. Code 62.1-44.5 and 9 VAC 25-31-50, by discharging treated sewage and municipal wastes from the Plant while concurrently failing to comply with the conditions of the Permit, as described in paragraphs C(2) through C(3), above.
12. LCWA has submitted documentation that resolves the violation cited in C.3.c.

13. In order for LCWA to return to compliance, DEQ staff and representatives of LCWA have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders LCWA, and LCWA agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$58,050.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

LCWA shall include its Federal Identification Number with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of LCWA for good cause shown by LCWA, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, LCWA admits the jurisdictional allegations, and neither admits nor denies the findings of fact, and conclusions of law contained herein.
4. LCWA consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

5. LCWA declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by LCWA to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. LCWA shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. LCWA shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. LCWA shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the LCWA intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and LCWA. Nevertheless, LCWA agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. LCWA petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - b. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to LCWA.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve LCWA from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by LCWA and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of LCWA certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind LCWA to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of LCWA.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, LCWA voluntarily agrees to the issuance of this Order.

And it is so ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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Thomas A. Faha, Regional Director  
Department of Environmental Quality

LCWA voluntarily agrees to the issuance of this Order.

Date: 4-15-10 By: James H Dodd - Chairman  
(Person) (Title)  
LCWA

Commonwealth of Virginia

City/County of Louisa

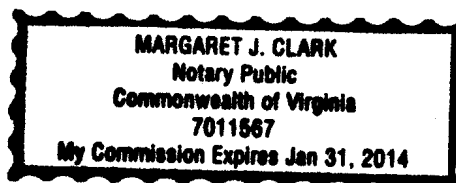
The foregoing document was signed and acknowledged before me this 15<sup>th</sup> day of April, 2010, by James H Dodd who is Chairman of LCWA, on behalf of the Authority.

Margaret J Clark  
Notary Public

7011567  
Registration No.

My commission expires: 1/31/2014

Notary seal:





## APPENDIX A SCHEDULE OF COMPLIANCE

LCWA shall:

1. Submit to DEQ, for review and approval by May 4, 2010, a plan of action and schedule to address the violations. Upon its approval by DEQ, said plan and schedule shall become a part of and enforceable under the terms of this Order.
2. Submit monthly progress reports to DEQ outlining the projects and steps taken to achieve compliance as outlined in paragraph 1. Said monthly reports shall be due on the 10<sup>th</sup> of each month and submitted as an attachment with the monthly Discharge Monitoring Report.
3. Comply with the provisions of the Permit with respect to monitoring, recordkeeping, and reporting requirements with the exception of the increased monitoring and sampling frequencies as listed below:

Parameter	Monitoring Requirements	
	<i>Frequency</i>	<i>Sampling Type</i>
TSS	5D/W	24H-C
E. Coli	5D/W	Grab
TKN	5D/W	24H-C
Total Phosphorus	1/W	24H-C
cBOD <sub>5</sub>	1/W	24H-C